

JUN 12 2003

NOT FOR PUBLICATION

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

**CATHY A. CATTERSON
U.S. COURT OF APPEALS**

PHIL P. IVALDY,

Plaintiff - Appellant,

v.

THE BOEING COMPANY, a corporation,

Defendant - Appellee.

No. 01-55593

D.C. No. CV-99-01201-DOC

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
David O. Carter, District Judge, Presiding

Argued and Submitted June 2, 2003
Pasadena, California

Before: REINHARDT, O'SCANNLAIN, and FISHER, Circuit Judges.

Phil Ivaldy appeals from the district court's grant of summary judgment.

The facts and prior proceedings are known to the parties, and are restated herein only as necessary.

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as may be provided by Ninth Circuit Rule 36-3.

We dismiss Ivaldy's appeal for lack of jurisdiction. Ivaldy knowingly and voluntarily waived his right to appeal the district court's grant of summary judgment in exchange for Boeing's not seeking attorney fees under the relevant federal and state statutes. He does not raise a valid argument for why the agreement does not comply with the requirements of 29 U.S.C. § 626(f)(2) and should not be enforced. The case is therefore moot. *Riverhead Sav. Bank v. National Mortg. Equity Corp.*, 893 F.2d 1109, 1112 (9th Cir. 1990); *see also U.S. Bancorp Mortg. Co. v. Bonner Mall P'ship*, 513 U.S. 18, 26-29 (1994); *Lake Coal Co. v. Roberts & Schaefer Co.*, 474 U.S. 120, 120 (1985) (per curiam).

Boeing's request for double costs and attorney fees is DENIED.

DISMISSED.